

VIRGINIA:

FILED
CRIMINAL

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

03 APR 15 PM 1:30

COMMONWEALTH OF VIRGINIA,

JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

v.

CRIMINAL NO. 102888

Hon. Jane Marum Roush

LEE BOYD MALVO,

Defendant

**MOTION FOR FULL AND COMPLETE DISCLOSURE
OF DISCOVERY MATERIALS**

The defendant, Lee Boyd Malvo, by his co-counsels, and pursuant to this Court's Orders dated May 3, 2003, and pursuant to the authorities stated in his previous motions for discovery and inspection and for disclosure of exculpatory material, states as follows:

1. The Discovery and Inspection Order dated March 3, 2003 directs in pertinent part

... that the Commonwealth ... permit the Defendant to inspect, copy and/or photograph (1) all written or recorded statements or confessions made by the accused, or copies thereof, or the substance of any oral statements or confessions made by the accused to any law enforcement officer, the existence of which is known to the Attorney for the Commonwealth.....

2. This Court also directed the Commonwealth to provide to the defendant "any evidence of an exculpatory nature."

3. In open Court the Commonwealth's Attorney agreed that he was responsible for knowledge of all exculpatory information held by "the Task Force" made up of federal, Maryland and Virginia law enforcement agencies and would provide same.

4. Prior to April 5, 2003 someone in law enforcement released (leaked) a summary of statements and interrogation of Lee Malvo. That document had not been provided to the defense by the Commonwealth.

5. The defendant's counsel are of a belief that a videotape of the Fairfax interrogation of Lee Malvo exists. None has been provided by the Commonwealth.

6. All discovery responses were due as of April 14, 2003. The defense fully complied.

7. In order to properly present the Motion to Suppress currently scheduled for hearing on April 28, 2003, the defendant needs the immediate productions by the Commonwealth of the following:

a. Any videotape of any meeting between Lee Malvo and any law enforcement agents at or around the time of his arrest and law enforcement's initial efforts to interrogate him.

b. Any "302" federal investigation reports (or forms of similar ilk) which contain exculpatory information or describe efforts to interrogate Lee Malvo, including any advice of rights or request for counsel.

c. Copies of all "summaries of interviews", summaries or reports of oral statements attributed by Lee Malvo in Fairfax County or elsewhere which were created by any member or staff of the "Task Force" including contemporaneous notes of any such oral statements.

d. Any videotape or audiotape, not already provided, of the interrogation of Lee Malvo or any discussion held with him in Fairfax County by any law enforcement agent.

e. Any record of interviews or efforts to take a statement from Lee Malvo by any law enforcement agent from the time of his arrest to present.

WHEREFORE the defendant, by his co-counsels respectfully move this honorable Court to enter an Order specifically directing the Commonwealth to provide to the defendant by or before April 22, 2003 at 11:00 A.M. each of the items listed in the foregoing paragraph.

Respectfully submitted,

LEE BOYD MALVO

By _____
Co-Counsel

and _____

By _____
Co-Counsel

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CERTIFICATE OF SERVICE

We/I hereby certify that a true copy of the foregoing Motion/Memorandum was mailed,
first class mail to:

Robert F. Horan, Jr., Esquire
Commonwealth's Attorney
4110 Chain Bridge Road
Room 123
Fairfax, VA 22030

and the original was forwarded for filing to:

Hon. John T. Frey
Clerk
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

and a true copy was forwarded to the

Hon. Jane Marum Roush
Judge
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

this 15th day of April, 2003.

-
Co-Counsel

Co-Counsel

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IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX

COMMONWEALTH OF VIRGINIA,)	JOHN T. FREY
)	CLERK, CIRCUIT COURT
)	FAIRFAX, VA
v.)	
)	Criminal No. 102888
LEE BOYD MALVO,)	
)	
Defendant.)	
)	

SUPPLEMENTAL NOTICE AND MOTION TO SUPPRESS

PLEASE TAKE NOTICE THAT on Monday, April 28, 2003 at 10:00 a.m., or as soon thereafter as counsel may be heard, the Defendant Lee Boyd Malvo, by and through counsel, shall move this Honorable Court to Suppress any and all statements made by him from the time of his arrest, on October 24, 2002, through the time of his custodial transportation from Maryland to Virginia, on November 7, 2002.

This supplemental notice and motion is necessary based on discovery materials obtained from the Commonwealth pursuant to the discovery order in this case, and about which defense counsel had been unaware prior to April 14, 2003. The grounds for the motion are substantially similar to those raised in the prior motion filed herein, but will be more completely elucidated in a supplemental memorandum, to be filed shortly hereafter.

Respectfully Submitted,

LEE BOYD MALVO
By Counsel

MARTIN, ARIF, ~~PETROVICH~~ & WALSH

By:

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for Craig Cooley, Esquire
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(703) 323-1200
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Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT true and accurate copies of the foregoing Notice and Motion, and accompanying Memorandum, were hand-delivered to Robert F. Horan, Esq., Commonwealth's Attorney, on this the 15th day of April, 2003.

Michael S. Arif